



## INTERIOR BOARD OF INDIAN APPEALS

Evelyn O'Leary and Emma Lu Reeves v. Great Plains Regional Director, Bureau of Indian Affairs

43 IBIA 266 (09/27/2006)

Related Board cases:

43 IBIA 270

43 IBIA 274



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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EVELYN O'LEARY and	:	Order Docketing and Dismissing
EMMA LU REEVES,	:	Appeals
Appellants,	:	
	:	
v.	:	Docket Nos. IBIA 06-116-A
	:	06-117-A
GREAT PLAINS REGIONAL	:	
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee.	:	September 27, 2006

On September 15, 2006, the Board of Indian Appeals (Board) received separate notices of appeal from Evelyn O'Leary (IBIA 06-116-A) and Emma Lu Reeves (IBIA 06-117-A), each pro se (Appellants). Appellants seek review of an August 3, 2006 decision of the Great Plains Regional Director, Bureau of Indian Affairs (Regional Director; BIA), establishing a grazing rental rate of \$16.10 an Animal Unit Month for individually-owned Indian lands on the Cheyenne River Reservation for the 2007 grazing season, pursuant to 25 C.F.R. § 166.408. The Board docketed these appeals, but dismisses them for lack of jurisdiction because they are untimely.

A notice of appeal from a decision of a BIA Regional Director must be filed with the Board within 30 days after receipt by the appellant of the decision from which the appeal is taken. 43 C.F.R. § 4.332(a). The 30-day deadline for filing a notice of appeal is jurisdictional. Id.; Tsosie v. Acting Navajo Regional Director, 42 IBIA 131 (2006). Untimely appeals must be dismissed. State of Kansas v. Southern Plains Regional Director, 43 IBIA 229, 230 (2006).

In their notices of appeal, both Appellants state that they received the Regional Director's decision on August 10, 2006. The Regional Director's decision provided correct appeal instructions, including the requirement that a notice of appeal be mailed to the Board within 30 days of the date that an appellant receives the Regional Director's decision. Appellants separately filed their notices of appeal on September 12, 2006, as evidenced by the postmarks shown on the envelopes in which the appeals were mailed. See 43 C.F.R. § 4.310(a).

Because Appellants filed their appeals after the 30-day time period expired, these appeals must be dismissed. 1/

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.01, the Board docketed these appeals, but dismisses them for lack of jurisdiction.

I concur:

// original signed  
Steven K. Linscheid  
Chief Administrative Judge

// original signed  
Charles E. Breece  
Acting Administrative Judge

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1/ On September 5, 8 and 11, 2006, the Board received separately-filed appeals, numbering 18 in all, seeking review of the same August 3, 2006 Cheyenne River Reservation grazing rate decision of the Regional Director. On September 15, 2006, the Board consolidated those appeals. See Sept. 15, 2006 Order, Leroy and Linda DuBray, et al. v. Great Plains Regional Director. The DuBray appeal has been assigned IBIA Docket No. 06-114-A, and the other appeals are awaiting the assignment of docket numbers. Our dismissal of the O'Leary and Reeves appeals does not affect the remaining consolidated appeals, or Appellants' right to participate as interested parties (but not as appellants) in that case.